

AMENDMENT OFFERED BY MRS. JOHNSON

Current Law

Physicians in certain specialties have developed comprehensive, community-based care for patients with critical conditions, like cancer. Certain services provided in relation to the delivery of drugs and biologicals in the community setting are not sufficiently reimbursed under the physician fee schedule.

Amendment

As we eliminate overpayments under the AWP process for covered drugs and biologicals, it is important that changes in reimbursements to community-based specialty physician practices not result in gross underpayments for high-quality care. To assure that services for which Medicare should pay are adequately reimbursed, use of some currently existing CPT codes will be necessary. The amendment would direct the Secretary to expedite the process for adjusting existing CPT codes for costs associated with the administration of covered outpatient drugs.

**AMENDMENT TO MR. THOMAS' SUBSTITUTE TO
H.R. 2473**

OFFERED BY MRS. JOHNSON OF CONNECTICUT

(Page & line nos. refer to Chairman's Mark of June 17, 2003)

In section 1848(c)(2)(H) of the Social Security Act,
as proposed to be added by section 303(a)(1)(B)—

(1) redesignate clauses (iii), (iv), and (v) (page
148, lines 15 through 32) as clauses (iv), (v), and
(vi), respectively; and

(2) insert after clause (ii) (page 148, after line
14) the following new clause:

1 “(iii) EXPEDITING CONSIDERATION OF CPT
2 CODES FOR AFFECTED PHYSICIAN SPECIALTIES.—
3 The Secretary shall, in cooperation with representa-
4 tives of physician specialties affected by section
5 1847A, take such actions as are necessary to expedite
6 considerations of CPT codes, or expand the
7 ability to appropriately bill for physicians' services
8 under existing CPT codes, for costs associated with
9 the administration of covered outpatient drugs. The
10 Secretary shall consult with representatives of advisory
11 physician groups in expediting such considerations.
12 ations.

In section 1848(c)(2)(B)(iv) of the Social Security
Act, as proposed to be added by section 303(a)(1)(A)(ii),
strike “clause (ii)” (page 147, lines 26 and 27) and insert
“clauses (ii) and (iii)”.

AMENDMENT TO MR. THOMAS' SUBSTITUTE TO**H.R. 2473****OFFERED BY MR. COLLINS****(Page & line nos. refer to Chairman's Mark of June 17, 2003)**

Page 67, line 12, strike out the closing quotation marks and period and after line 12 [At the end of section 1851(j) of the Social Security Act, as added by section 102(a)], add the following new paragraph:

1 “(9) SPECIAL RULES FOR PRIVATE FEE-FOR-
2 SERVICE PLANS.— With respect to a Medicare Ad-
3 vantage plan described in section 1851(a)(2)(C) that
4 offers qualified prescription drug coverage—

5 “(A) REQUIREMENTS REGARDING NEGO-
6 TIATED PRICES.—Subsections (a)(1) and (d)(1)
7 of section 1860D-2 shall not be construed to
8 require the plan to negotiate prices or discounts
9 but shall apply to the extent the plan does so.

10 “(B) MODIFICATION OF PHARMACY PAR-
11 TICIPATION REQUIREMENT.—If the plan pro-
12 vides access, without charging additional copay-
13 ments, to all pharmacies without regard to
14 whether they are participating pharmacies in a
15 network, section 1860D-3(c)(1)(A)(iii) shall not
16 apply to the plan.



1 “(C) DRUG UTILIZATION MANAGEMENT
2 PROGRAM NOT REQUIRED.—The requirements
3 of section 1860D-3(d)(1)(A) shall not apply to
4 the plan.

5 “(D) NON-PARTICIPATING PHARMACY DIS-
6 CLOSURE EXCEPTION.—If the plan provides
7 coverage for drugs purchased from all phar-
8 macies, without entering into contracts or
9 agreements with pharmacies to provide drugs to
10 enrollees covered by the plan, section 1860D-
11 3(d)(5) shall not apply to the plan.”.



**AMENDMENT TO MR. THOMAS' SUBSTITUTE TO
H.R. 2473**

OFFERED BY MR. COLLINS

(Page & line nos. refer to Chairman's Mark of June 17, 2003)

Page 112, line 3, strike the semicolon and insert and
period and strike lines 4 through 7.



Nussle/Pomeroy Amendment

Labor Share Revision

Medicare inpatient payment is made based on a series of formulas. The standardized amount is adjusted for the DRG. The DRG is adjusted for the wage index.

The labor share is the portion of the payment rate that is adjusted by the hospital wage index. For inpatient services, the current labor share is 71.1%. The purpose of this amendment is to reduce the labor share to 62% for those hospitals in low wage areas. A low wage area is defined as one under the national average. This would increase the payment in low wage areas.

Other areas would be held harmless from any effect from the change in the labor share.

Geographic Physician Payment Adjustment

The provision would promote increased access to care by directing additional Medicare payments to areas with a scarcity of physicians. It would target money directly to areas needing assistance. Physicians would be paid a new 5 percent Medicare bonus payment in certain counties. Counties would be identified as primary care scarcity counties or specialty care scarcity counties, or both, based on two measures: 1) the number of primary care physicians per Medicare beneficiary and 2) specialty care physicians per Medicare beneficiary. Primary care scarcity counties would include the 20 percent of Medicare beneficiaries with the fewest primary care physicians per beneficiary. Primary care physicians providing care in these counties would get a 5 percent bonus. Likewise, specialty care scarcity counties would include the 20 percent of Medicare beneficiaries with the fewest specialty care physicians per beneficiary. Specialty care physicians in these counties would get a 5 percent bonus.

**AMENDMENT TO MR. THOMAS' SUBSTITUTE TO
H.R. 2473
OFFERED BY MR. NUSSLE (FOR HIMSELF AND MR.
POMEROY)**

(Page & line nos. refer to Chairman's Mark of June 17, 2003)

At the end of title IV [page 193, after line 26], insert the following new sections:

**1 SEC. 416. ADJUSTMENT TO THE MEDICARE INPATIENT HOS-
2 PITAL PPS WAGE INDEX TO REVISE THE
3 LABOR-RELATED SHARE OF SUCH INDEX.**

4 (a) IN GENERAL.—Section 1886(d)(3)(E) (42 U.S.C.
5 1395ww(d)(3)(E)) is amended—

6 (1) by striking “WAGE LEVELS.—The Sec-
7 retary” and inserting “WAGE LEVELS.—

8 “(i) IN GENERAL.—Except as provided in
9 clause (ii), the Secretary”; and

10 (2) by adding at the end the following new
11 clause:

**12 “(ii) ALTERNATIVE PROPORTION TO BE
13 ADJUSTED BEGINNING IN FISCAL YEAR 2004.—**

14 “(I) IN GENERAL.—Except as pro-
**15 vided in subclause (II), for discharges oc-
16 ccurring on or after October 1, 2003, the
17 Secretary shall substitute the ‘62 percent’**

1 for the proportion described in the first
2 sentence of clause (i).

3 “(II) HOLD HARMLESS FOR CERTAIN
4 HOSPITALS.—If the application of sub-
5 clause (I) would result in lower payments
6 to a hospital than would otherwise be
7 made, then this subparagraph shall be ap-
8 plied as if this clause had not been en-
9 acted.”.

10 (b) WAIVING BUDGET NEUTRALITY.—Section
11 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)), as amended
12 by subsection (a), is amended by adding at the end of
13 clause (i) the following new sentence: “The Secretary shall
14 apply the previous sentence for any period as if the
15 amendments made by section 402(a) of the Medicare Pre-
16 scription Drug and Modernization Act of 2003 had not
17 been enacted.”.

18 **SEC. 417. MEDICARE INCENTIVE PAYMENT PROGRAM IM-**
19 **PROVEMENTS FOR PHYSICIAN SCARCITY.**

20 (a) ADDITIONAL BONUS PAYMENT FOR CERTAIN
21 PHYSICIAN SCARCITY AREAS.—

22 (1) IN GENERAL.—Section 1833 (42 U.S.C.
23 1395j) is amended by adding at the end the fol-
24 lowing new subsection:

1 “(u) INCENTIVE PAYMENTS FOR PHYSICIAN SCAR-
2 CITY AREAS.—

3 “(1) IN GENERAL.—In the case of physicians’
4 services furnished in a year—

5 “(A) by a primary care physician in a pri-
6 mary care scarcity county (identified under
7 paragraph (4)); or

8 “(B) by a physician who is not a primary
9 care physician in a specialist care scarcity coun-
10 ty (as so identified),

11 in addition to the amount of payment that would
12 otherwise be made for such services under this part,
13 there also shall be paid an amount equal to 5 per-
14 cent of the payment amount for the service under
15 this part.

16 “(2) DETERMINATION OF RATIOS OF PHYSI-
17 CIANS TO MEDICARE BENEFICIARIES IN AREA.—
18 Based upon available data, the Secretary shall peri-
19 odically determine, for each county or equivalent
20 area in the United States, the following:

21 “(A) NUMBER OF PHYSICIANS PRACTICING
22 IN THE AREA.—The number of physicians who
23 furnish physicians’ services in the active prac-
24 tice of medicine or osteopathy in that county or
25 area, other than physicians whose practice is

1 exclusively for the Federal Government, physi-
2 cians who are retired, or physicians who only
3 provide administrative services. Of such num-
4 ber, the number of such physicians who are—

5 “(i) primary care physicians; or

6 “(ii) physicians who are not primary
7 care physicians.

8 “(B) NUMBER OF MEDICARE BENE-
9 FICIARIES RESIDING IN THE AREA.—The num-
10 ber of individuals who are residing in the coun-
11 ty and are entitled to benefits under part A or
12 enrolled under this part, or both.

13 “(C) DETERMINATION OF RATIOS.—

14 “(i) PRIMARY CARE RATIO.—The ratio
15 (in this paragraph referred to as the ‘pri-
16 mary care ratio’) of the number of primary
17 care physicians (determined under sub-
18 paragraph (A)(i)), to number of medicare
19 beneficiaries determined under subpara-
20 graph (B).

21 “(ii) SPECIALIST CARE RATIO.—The
22 ratio (in this paragraph referred to as the
23 ‘specialist care ratio’) of the number of
24 other physicians (determined under sub-
25 paragraph (A)(ii)), to number of medicare

1 beneficiaries determined under subpara-
2 graph (B).

3 “(3) RANKING OF COUNTIES.—The Secretary
4 shall rank each such county or area based separately
5 on its primary care ratio and its specialist care ratio.

6 “(4) IDENTIFICATION OF COUNTIES.—The Sec-
7 retary shall identify—

8 “(A) those counties and areas (in this
9 paragraph referred to as ‘primary care scarcity
10 counties’) with the lowest primary care ratios
11 that represent, if each such county or area were
12 weighted by the number of medicare bene-
13 ficiaries determined under paragraph (2)(B), an
14 aggregate total of 20 percent of the total of the
15 medicare beneficiaries determined under such
16 paragraph; and

17 “(B) those counties and areas (in this sub-
18 section referred to as ‘specialist care scarcity
19 counties’) with the lowest specialist care ratios
20 that represent, if each such county or area were
21 weighted by the number of medicare bene-
22 ficiaries determined under paragraph (2)(B), an
23 aggregate total of 20 percent of the total of the
24 medicare beneficiaries determined under such
25 paragraph.

1 There is no administrative or judicial review respect-
2 ing the identification of a county or area or the as-
3 signment of a specialty of any physician under this
4 paragraph.

5 “(5) RURAL CENSUS TRACKS.—To the extent
6 feasible, the Secretary shall treat a rural census
7 tract of a metropolitan statistical area (as deter-
8 mined under the most recent modification of the
9 Goldsmith Modification, originally published in the
10 Federal Register on February 27, 1992 (57 Fed.
11 Reg. 6725) as an equivalent area for purposes of
12 qualifying as a primary care scarcity county or spe-
13 cialist care scarcity county under this subsection.

14 “(6) PHYSICIAN DEFINED.—For purposes of
15 this paragraph, the term ‘physician’ means a physi-
16 cian described in section 1861(r)(1) and the term
17 ‘primary care physician’ means a physician who is
18 identified in the available data as a general practi-
19 tioner, family practice practitioner, general internist,
20 or obstetrician or gynecologist.

21 “(7) PUBLICATION OF LIST OF COUNTIES.—In
22 carrying out this subsection for a year, the Secretary
23 shall include, as part of the proposed and final rule
24 to implement the physician fee schedule under sec-
25 tion 1848 for the year, a list of all areas which will

1 qualify as a primary care scarcity county or spe-
2 cialist care scarcity county under this subsection for
3 the year involved.”.

4 (2) EFFECTIVE DATE.—The amendments made
5 by subsection (a) shall apply to physicians’ services
6 furnished or after January 1, 2004.

7 (b) IMPROVEMENT TO MEDICARE INCENTIVE PAY-
8 MENT PROGRAM.—

9 (1) IN GENERAL.—Section 1833(m) (42 U.S.C.
10 1395J(m)) is amended—

11 (A) by inserting “(1)” after “(m)”; and

12 (B) by adding at the end the following new
13 paragraphs:

14 “(2) The Secretary shall establish procedures under
15 which the Secretary, and not the physician furnishing the
16 service, is responsible for determining when a payment is
17 required to be made under paragraph (1).

18 “(3) In carrying out paragraph (1) for a year, the
19 Secretary shall include, as part of the proposed and final
20 rule to implement the physician fee schedule under section
21 1848 for the year, a list of all areas which will qualify
22 as a health professional shortage area under paragraph
23 (1) for the year involved.”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by paragraph (1) shall apply to physicians' services
3 furnished or after January 1, 2004.